

EXHIBIT 2

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 CASE NO. 18-CV-6658 (JSR)
5 CASE NO. 18-CV-10936 (JSR)

6 -----
7 IN RE: PLATINUM-BEECHWOOD LITIGATION
8 -----

9 MARTIN TROTT and CHRISTOPHER SMITH, as Joint
10 Official Liquidators and
11 Foreign Representatives of
12 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
13 (in Official Liquidation), and
14 PLATINUM PARTNERS VALUE ARBITRAGE FUND L.P.
15 (in Official Liquidation),

16 Plaintiffs,

17 vs.

18 PLATINUM MANAGEMENT (NY) LLC, et al.,

19 Defendants.
20 -----

21
22 TRANSCRIPT OF DEPOSITION OF
23 HFF 30(b)(6) WITNESS MURRAY HUBERFELD

24
25 TRANSCRIPT of the stenographic notes of
the proceedings in the above-entitled matter, as
taken by and before TAB PREWETT, a Registered
Professional Reporter, a Certified LiveNote
Reporter, Certified Shorthand Reporter and Notary
Public, held at the offices of US Legal Support
Company, 90 Broad Street, Suite 603, New York,
New York, on Thursday, December 5, 2019,
commencing at 9:30 a.m.

1 Murray Huberfeld 30(b) (6) HFF

2 Oratz beginning in 2013 all the way into 2017 in
3 excess of \$2 million?

4 A I remember certain loans. I don't
5 calculate them in total -- but certain loans with
6 different people.

7 And Moshe Oratz was a close friend
8 of mine, someone who had -- who I had known for a
9 long time, someone who had done a lot of good
10 things and I like him a lot. And I am happy to
11 answer any questions specifically about any loan.

12 Q Why do you think -- what was the
13 purpose of their loan?

14 How -- why did the Huberfeld Family
15 Foundation give over \$2 million in loans to
16 Oratz?

17 A Well, most of the loans that were
18 given to him were given at interest rates, okay,
19 payment of interest rates. And he paid them and
20 continues to pay them.

21 I believe there was -- in my -- in
22 my review, I found one loan that I gave to his
23 brother for \$300,000, which I believe he paid
24 back 200 of it within a month and the balance
25 over the next several months.

1 Murray Huberfeld 30(b) (6) HFF

2 And the other loans were given out,
3 I believe, all at interest -- and someone who I
4 trust implicitly and someone who approached me
5 and said that "I need money."

6 And I said:

7 "Okay. Here's what the opportunity
8 is. What's the collateral?"

9 And discussion, and I lent the
10 money.

11 Q So what is the charitable purpose
12 of giving \$2 million to Oratz?

13 A Let's try it again.

14 Q Loaning?

15 A I didn't lend -- I didn't lend him
16 \$2 million for charitable purposes. I had one
17 loan that I lent him for -- for no interest, not
18 to him, but to his brother, which was a
19 relatively small amount of money which he paid
20 back.

21 Q \$300,000 --

22 A 300,000 --

23 Q -- does that sound right?

24 A Which he paid 200 within a --
25 within two weeks --

1 Murray Huberfeld 30(b) (6) HFF

2 Q Okay.

3 A -- and the balance over the year.

4 So it was a relatively -- for the foundation, an
5 insignificant amount of money to lend out. I
6 forgot the reason that his brother approached me
7 at the time for that loan; but it was something
8 having to do with him, nothing to do with Moshe
9 Oratz.

10 And Moshe Oratz's loans were all
11 for interest, so they weren't charitable work.
12 They were making money.

13 Q So the second loan in 2014 for
14 750,000 to Moshe Oratz at 5 percent, that was --
15 you are viewing that as an investment?

16 A It was.

17 Q Okay. Was it paid back?

18 A Mostly paid back. He's been paying
19 back -- I don't think it was at 5 percent. I
20 think it was at three -- \$3,125 per month based
21 on the 750 that he paid \$40,000 principal right
22 away; so it was only 710. But the interest
23 payments stayed the same.

24 And then he paid back \$10,000 a
25 month for three years. And the interest payment

1 Murray Huberfeld 30(b) (6) HFF
2 stayed the same. So it was -- it ended up being
3 higher than 5 percent. I think it ended up -- I
4 don't know what the exact rate is, but --

5 Q All right. So tab ten, page 299.

6 A Yes, tab ten.

7 Q All right. On page 299, so it
8 says -- oh, you are still looking.

9 All right. It's -- it's the bottom
10 one there on that page. So it's A. Oratz. So
11 that would be --

12 A Right.

13 Q -- is that Abraham?

14 A Yes.

15 Q Okay. And it's for 300,000, and at
16 0 percent interest; and the maturity date was
17 less than a year?

18 A Right. It was paid back much
19 earlier.

20 Q Okay. Now, was he an investor in
21 either PPVA or PPCO, if you recall?

22 A Not that I know.

23 Q Not that you know of?

24 A I don't think so.

25 Q Okay. All right.

1 Murray Huberfeld 30(b) (6) HFF

2 How about Moshe?

3 A I don't think so either.

4 Q Okay. Let's look at the next one.

5 That is tab 11, page 346.

6 A Okay.

7 Q All right. And so this was a
8 750,000 loan at 5 percent?

9 A Correct.

10 Q It had a -- it was for less than a
11 year, from May to December of 2014. And so as of
12 end of the year, the balance was 710,000.

13 A Right, as I recall, he paid \$40,000
14 down immediately. And I also remember that the
15 foundation also was able -- bought some shares in
16 a company called Mobli at the same time at a very
17 discounted price.

18 So I think that was part of this
19 loan investment type of thing. You know, it's --
20 it's six years ago. I don't recall everything
21 exactly, but it was -- that was -- there was --
22 there was an opportunity. This loan was part of
23 an opportunity that the foundation got.

24 Q So -- so you believed then, rather
25 than paying the balance of the -- the loan back,

1 Murray Huberfeld 30(b) (6) HFF

2 the foundation got some stock?

3 A No, that's not what I said.

4 Q Okay. Tell me -- tell me --

5 A What I said was:

6 As an additional incentive besides

7 the original interest rate, I think -- I don't

8 recall exactly -- I have some recollection of the

9 foundation able to buy some shares in Mobli at a

10 discounted price, either from Moshe Oratz or

11 maybe Abe.

12 I -- I don't remember exactly. But

13 I know it was something to do with Mobli at the

14 time.

15 Q Okay. All right. Let's look at

16 15. All right. So if we look at -- I'm sorry.

17 Tab 12, page 410.

18 So at the top there, "Oratz loan,"

19 date April 15 -- April 2015 for 400,000, maturity

20 date not until April of; 20, 5 percent. And they

21 paid \$100,000 at that point.

22 A This was a -- this was a

23 self-liquidating loan. It was paying interest

24 and principal on a monthly basis.

25 Q Okay.

1 Murray Huberfeld 30(b) (6) HFF

2 A So it wasn't maturing. It was
3 maturing at the last payment of \$4,000 -- was
4 four years out. It was paying every single --
5 every single month.

6 Q Every single month?

7 A Correct.

8 Q Okay.

9 A It was like -- it was a
10 self-liquidating loan.

11 Q Okay. Any reason why -- do you
12 recall any thoughts about loaning them another
13 400,000 when they still owed you seven?

14 A I -- as I remember having a -- you
15 know, a few million shares of collateral, it
16 was -- for me, it was a no-brainer loan.

17 Q Okay.

18 A I was sitting on money earning at
19 that time probably 20 basis points. And I put
20 that money out at 5 percent or above -- above,
21 pretty much a no-risk loan. Why would I not want
22 to do that?

23 Q Okay. Okay. Aaron Elbogen --

24 A Yes.

25 Q -- this is a -- a gent who was your

1 Murray Huberfeld 30(b)(6) HFF

2 (Document, bank records from 2010

3 and 2017, requested.)

4 Q Okay. All right. Let me ask about
5 the Bodner-Huberfeld Family Foundation. Tell me
6 about that foundation and what role your
7 foundation or you play in that foundation.

8 A First of all, I am not going to
9 guess on what year it was formed --

10 Q Okay.

11 A -- because I was wrong the last --

12 Q Okay.

13 A It was formed many years ago.

14 Q Okay.

15 A It was what I will call the
16 predecessor or the parent charity things. Myself
17 and Mr. Bodner were in business together and
18 decided to make what we call the joint
19 foundation.

20 And that foundation was doing
21 similar things to what the Huberfeld Foundation
22 ended up doing later on.

23 Q Okay.

24 A And we decided at some point to
25 separate and make separate foundations. I guess

1 Murray Huberfeld 30(b) (6) HFF
2 it was 1998 based on what you showed me and
3 basically put the main foundation in -- for all
4 intents and purposes, a wind-down situation,
5 which means that it had moneys; it had
6 investments; it had loans; it had all kinds of
7 different things, this.

8 And we decided:

9 "Okay. We are now going to run
10 separate foundations, each of us. And whatever
11 is in the main foundation, we are going to keep
12 giving out charity for that."

13 Those are joint decisions, myself
14 and Mr. Bodner on all of those things. And we
15 had a -- we had a number of investments that were
16 still in there that needed time to wind down.

17 So the foundation has completely
18 wound down already. I believe it had almost very
19 little operations for the last years. I don't
20 know the exact date in which it wound down and
21 gave out whatever money it had, both individually
22 to the two foundations and to other charities.

23 Q Okay. And was it 50/50 ownership
24 of that?

25 A You don't own a foundation, but it

1 Murray Huberfeld 30(b) (6) HFF

2 was -- the two of us were the two people that
3 founded it.

4 Q You -- you were equals among that
5 foundation?

6 A Correct.

7 Q Do you remember who the president
8 was? Was it you or him?

9 A It could be it was me. I don't
10 recall.

11 Q And there was a loan -- the tax
12 returns show a loan to the Bodner -- excuse,
13 me -- Huberfeld-Bodner Family Foundation in June
14 of 2013.

15 A Who loaned who?

16 Q The Huberfeld Family Foundation
17 loaned the Huberfeld-Bodner Family Foundation
18 1.369 million --

19 A Yes.

20 Q -- in June of 2013, no maturity
21 date, no interest rate; and at the end of the
22 year, it had a balance due of about 880,000.

23 A Yes, there was a separate --
24 MR. CHASE: Objection. Objection
25 to the form. I think -- is it the

1 Murray Huberfeld 30(b)(6) HFF

2 Bodner-Huberfeld or Huberfeld-Bodner?

3 Q The tax return says

4 Huberfeld-Bodner Family Foundation.

5 A Okay. So what I recall -- I don't

6 have perfect knowledge of this -- but what I

7 recall was that the joint foundation -- just --

8 that's how we'll reference Huberfeld-Bodner if

9 that's okay.

10 Q Yes.

11 A The joint foundation had several

12 life insurance policies that it owned. There

13 were premiums that were due. We were no longer

14 donating money to the joint foundation, so the

15 foundation was in need of moneys to keep those --

16 keep those -- those premiums -- payments that

17 were needed.

18 So my foundation upstreamed the

19 money to the foundation, to the other foundation,

20 to take care of those things. And then they were

21 subsequently downstreamed to the foundation.

22 Q All right. So your recollection is

23 that your foundation made a loan to the joint

24 foundation to assist with the payment of premiums

25 for life insurance policies?

1 Murray Huberfeld 30(b) (6) HFF

2 A For investments that -- that they
3 had because ultimately the money that the joint
4 foundation had was going to charity. So here was
5 an investment that the joint foundation had made,
6 was in stress because the past -- because the
7 premiums were due.

8 There was no cash available in the
9 joint foundation at the time, so the foundation
10 made an upstream payment to them, and then
11 subsequently got that money back.

12 Q All right. So let me -- on the tax
13 return, where it says "purpose of the loan," it
14 says, "Assist loans made by related foundation."

15 Were aware if the joint foundation
16 was making loans that it needed assistance with?

17 A As I say, the moneys to the
18 insurance were characterized as loan.

19 Q I mean, was there any discussion
20 about making a loan to basically yourself from
21 your own charity to another charity that you
22 controlled?

23 A To help another charity, no. I
24 didn't see any issue with it.

25 Q Did you run it by your accountant

1 Murray Huberfeld 30(b) (6) HFF

2 as far as arm's length transaction?

3 A I am sure I did.

4 Q Do you feel -- do you remember you
5 did or --

6 A No.

7 Q -- do you think you did?

8 A But I -- would I do something --
9 first of all, he found out about it subsequently.

10 If he had a problem with it, he would have told
11 me.

12 Q Okay.

13 A And like I said, the money was
14 returned, and those -- those moneys that the
15 charity would have lost, which were
16 significant -- remember, in the life insurance
17 policy, all the money that's paid in in premiums,
18 if you miss a premium payment, get lost.

19 So if the charity, joint foundation
20 would have lost -- I don't know how much money it
21 was, but I imagine it was a significant amount of
22 money. So I felt it was the right thing to do
23 and did.

24 Q Okay. All right. Let me ask --
25 there's a couple of E-Mails out there that talk